IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14398 of 2004

Between:

1 K. Pandarinath Reddy, S/o. Rami Reddy, R/o. 194, MLAs & MPs Colony, Road No. 10-C, Jubilee Hills, Hyderabad-33.
2 G. Vidyasagar Reddy, S/o. late G. Chenna Krishna Reddy,
R/o. Plot No. 203, Sarvodaya Enclave, Opp. 203, Sarvodaya Enclave,
Opp. Old MLA Quarters, Himayathnagar, Hyderabad - 29.
3 K. Pradeep Kumar, S/o. Late K. Subba Rao,
R/o. 1641, Road NO. 12, Banjara Hills, Hyderabad - 12.
4 B. Kasi Babu, S/o. Subba Rao,
R/o. 12-2-828/A/35, Amba Gardens, Mehdipatnam, Hyderabad - 28.

....PETITIONERS

AND

1 The State of A.P. Rep by its Principal Secretary, Revenue Department, Secretariat, Hyderabad.
2 The Special Officer & Competent Authority, Urban Land Ceilings, Hyderabad, Chandravihar, Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in seeking to exercise the powers under Section 5(3) of the Urban Land (Ceiling & Regulation) Act, 1976 on the basis of the D.O. Lr.No.172/MYS, Ptg. & Sta.)/2004 dt 23-07-2004 as arbitrary, illegal and violative of Article 14, 21 of Constitution of India.

Counsel for the Petitioners: MR.D.JAGAN MOHAN REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

The petitioners herein purchased plots bearing Nos.26, 24, 38 and 7 respectively admeasuring from 214 to 302 square yards under registered sale deeds in 1995 from Bharani Cooperative Housing Society Limited. It appears the said society and its vendors applied to Government seeking exemption under Section 20(1)(a) of the Urban Land (Ceiling and Regulation) Act, 1976 (the Act, for brevity), under G.O.Ms.No.136 dated 28.01.1981 and pending such application, petitioners purchased the property with the consent of the said society, which had entered into an agreement with the vendors or owners of surplus vacant land. After the Government issued orders in G.O.Ms.No.455 dated 29.07.2002, the petitioners approached the Government seeking regularisation of sale deeds, which were executed in their favour by the original declarants. These applications are still pending. In the meanwhile, an Hon'ble Minister in the State Cabinet addressed a D.O. letter to the Principal Secretary to the Government requesting to issue necessary instructions to the Special Officer and Competent Authority to apply the provisions of Section 5(3) of the Act in respect of the sale deeds covered by document Nos.244/95 and 23 others. Apprehending that the first respondent might take action without notice to petitioners, the present writ petition is filed.

I have heard the learned senior counsel Sri Prakash Reddy for the petitioners. The learned senior counsel rightly submits that the petitioners are not challenging the letter addressed by the Hon'ble Minister to the Principal Secretary. In a democratic polity, it is always open to any elected representative to address the Government represented by the Secretary to Government regarding a particular course of action. Merely because the Hon'ble Minister addressed a letter, it does not mean that the Secretary can straightaway take action ignoring law and ignoring the business rules framed under Article 166 of the Constitution of India. Any action of the Government must be subject to rule of law and must satisfy the test of legality, propriety and rationality. In a recent judgment in **M/s.Rajureshwar Associates v State of Maharashtra,** Hon'ble Supreme Court considered this aspect of the matter and laid down as under:

… It is evident that requirement of these rules was not complied with at the time when decision dated 23.10.2000 was taken by the Textile Minister to sell the entire land in favour of the appellant. The matter was required to be placed before the Council of Ministers as the alienation of the property exceeded Rs.5 lacs as per Rule 11 of the Rules of Business secondly since the Finance Department had not concurred with the Textile Department the matter was required to be placed before the Cabinet in terms of sub-rule (2) of Rule 11 of the Rules of Business. The conclusion which flows from the record is to the effect that the Government had not given sanction/approval for the sale of subject land when the Co-operation of Textile Department approached it for the same. The Government as per Rules of Business had not given any sanction/approval for the sale of land. The communication dated 23.10.2000 is not a Government decision as is obvious from the record and the subsequent

communications dated 24.01.2001 and 12.07.2001 which were issued without verifying the record and ran contrary to the record did not convey a proper sanction.

…**Even assuming that the Chief Minister had informally directed as is stated in the noting of the Principal Secretary, the requirement under the rules of Business could not be bye passed by any individual functionary.**

(Emphasis supplied)

The letter allegedly addressed by the Hon'ble Minister to the Principal Secretary is annexed to the writ petition, wherein the Hon'ble Minister asked the Principal Secretary to examine the issue and see that necessary instructions are given to the Special Officer. This Court has no doubt that even if the Principal Secretary to Government is inclined to take any action on the said letter, the same has to be taken, be it, under Section 5(3) of the Act or any provision of law in accordance with principles of natural justice and principles of fairness. This observation would dispel any apprehension in the minds of the petitioners.

The writ petition, with the above observation, is disposed of.

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(V.V.S.RAO,J)

16.08.2004.

pln

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Principal Secretary, Revenue Department, Secretariat, Hyderabad.
2. The Special Officer & Competent Authority, Urban Land Ceilings, Chandravihar, Nampally, Hyderabad.
3. 2 CCs to the Government Pleader for Revenue, High Court Buildings, Hyderabad (OUT).
4. 2 CD copies.